

Minutes of the Board of Adjustment meeting held on Monday, January 12, 2009, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Rosi Haidenthaller, Chair
Joyce McStotts, Vice-Chair
Wendell Coombs, Jr.
Jonathan Russell
Connie Howard
Tim Tingey, Community & Economic Development Director
Ray Christensen, Senior Planner
Chad Wilkinson, Community Development Planner
G.L. Critchfield, Deputy City Attorney
Citizens

There was a Staff Pre-Meeting held where the Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

APPROVAL OF MINUTES

Rosi Haidenthaller asked for additions or corrections to the minutes of October 13 and November 10, 2009. Wendell Coombs made a motion to approve the minutes as submitted. Joyce McStotts seconded the motion.

Voice vote was taken. Minutes approved 5-0.

Rosi Haidenthaller explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and that financial issues are not considered a hardship.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

CASE #1371 – WASATCH C.N.G. – 5567 South Commerce Drive

Richard Burrola was the applicant present to represent this request. Ray Christensen reviewed the location and request for a variance to not install the full depth of required landscaping at the street frontage of the property located at 5567 South Commerce Drive located within the M-G-C zone. Murray City Code Section 17.68.030.2 states that "Landscaping and related improvements required by the code shall be installed on developments where a Conditional Use Permit is required". Murray City Code Section 17.152.100A states that "10 feet of landscaping shall be required along all frontage areas not occupied by drive accesses". The property is located on Commerce Drive (300 West) in an area dominated by industrial uses. The property is zoned M-G-C. The current use of the property is for camper sales and service and has a Conditional Use Permit. A fueling station has been proposed for use of the south west area of the property. The planning commission approved a fueling station subject to meeting specific conditions. Among the standards required to be brought into compliance are landscaping and parking. The ordinance requires a 10 foot depth of frontage landscaping on the Anderson Avenue frontage whereas there is currently a 3-5 foot depth. The Planning Commission granted approval for this use, with the landscaping requirement, at the Planning Commission meeting on December 4, 2008.

Richard Burrola, 8056 South Demerest Road, Salt Lake City, stated that he is here as an environmentalist, for economic reasons, and this is a national security issue. He stated

the city code requires landscaping in an area that could use upkeep, but in the maintenance of the landscaping there will be burning of gasoline to maintain the landscaping through equipment/machinery. There will also be use of fertilizer and pesticides and numerous different chemicals in the upkeep of any type of landscaping. There will be use of water, and every year water is becoming more of a concern. All these issues are contradictory to what he is attempting to do with this project. He stated he is leasing this property and he does not own the property. The owner of the property is not going to allow him to take an additional five foot strip of property and lose the utility of the land and he will then be required to find another place in which to conduct his business. He stated the landfill will be filled with additional waste that is not necessary. He stated there is an area of the ocean near the Mississippi River that dies every year due to the fertilizers that are washed downstream. He stated that over 10,000 gallons of water are used in maintenance of existing landscaping, and he is now being required to add even more landscaping. He stated it is arrogant of us to consume in this type of fashion. A billion people don't have clean water on the earth and lack of water is blamed for famine.

Rosi Haidenthaller commented that the Board is aware of Mr. Burrola's opinion regarding water usage for landscaping. She stated that the city code does allow for a certain portion of landscaping to be xeriscaping.

Mr. Burrola stated that the general welfare is not about him or Wasatch C.N.G., and that it is about the general welfare of the public such as the environmental impact and pollutants along the Wasatch Front.

Ms. Haidenthaller stated when the property owner wishes to lease this property to any other business, these same issues will still be unresolved. She explained that when there is a change of use on the property, the property needs to be brought into compliance with the current codes, unless the existing business remains on the property forever. She explained that variances remain with the property and not the tenant or property owner and it benefits the property and future businesses to have the property brought into compliance.

Mr. Burrola commented that there is double the amount of required landscaping along the west side boundary (20 feet wide) along with sprinklers and it has been maintained. He stated the current environment of the United States relies on foreign countries to meet the transportation needs. This project will take one small step in mitigating that particular problem with the United States. Mr. Burrola stated the product which is natural gas, will be sold on the property will have a direct economic impact on America and will not be exported. He stated that he is reasonable and would like to agree on some type of a compromise.

Mr. Russell asked Mr. Burrola if there are any other hardships associated with this request. Mr. Burrola responded that he does not have a hardship and he could walk from this property and find another location, but he will be out the time and money spent in pursuing this property. The hardship will go to the general public as a whole and will be losing a project that is beneficial in more than one way.

Mr. Russell stated if the board does not provide the 5 foot variance, everyone will lose because the project will not transpire at this location. Mr. Burrola stated that Questar has been providing natural gas to customers at their cost for some time in an attempt to move the industry forward and it is now to a point that they are raising the price, but are not subsidizing the price to allow the private sector to come in and help build out the infrastructure. Mr. Burrola stated there are not many natural gas stations and there is a

demand for more stations. He stated he chose this location because he thought it would be an overflow site from the Murray City Public Services Building at 4500 South 500 West location because that site is down on a fairly consistent basis and does not provide a full tank of compressed natural gas. He stated he is an environmentalist for this application. Mr. Burrola stated that the Board's role is to uphold the letter of the law and sometimes the letter of the law is unjust.

Ms. Haidenthaller opened the meeting for public comment. No comments were made by the public.

Connie Howard commented that she felt there are landscaping options for Mr. Burrola such as bushes, xeriscapig, etc. that would still beautify the area. Ms. Howard stated she understands environmental issues and drought, but the type of landscaping is not dictated to Mr. Burrola, and if the Board were to grant a variance based on an environmental issue, the Board would be going against the city land use ordinances and is not viewed as criteria for a hardship. She stated that the Board's duty is to provide a variation from the city's ordinances, based upon certain unique circumstances.

Rosi Haidenthaller stated that she understands the comments made by Mr. Burrola regarding water conservation, but that much of the water in Murray runs off into the gutters and into the storm drains and sometimes when there is landscaping the water does soak into the ground and replenishes the well system and there is a benefit over having asphalt. She commented that Mr. Burrola could apply to have the ordinance changed which process is through the Planning Commission and City Council.

Jonathan Russell stated that the Board wishes to help the property owner to utilize the property to the best possible scenario and they have a right to utilize the property, but the Board is required to uphold the criteria for granting a variance. He stated that he does not see that any of the criteria is being met with this application. The only hardship being that of a financial hardship by having to install the landscaping and move the fence and that finances cannot be the basis for granting a variance. He stated the business could still be located on this property by moving the fence and installing the required landscaping. Mr. Russell then made a motion to deny the variance. The motion was seconded by Wendell Coombs.

Call vote recorded by Ray Christensen.

<u>A</u>	Mr. Coombs
<u>A</u>	Ms. Haidenthaller
<u>A</u>	Ms. McStotts
<u>A</u>	Mr. Russell
<u>A</u>	Ms. Howard

Motion passed 5-0.

ELECTION OF OFFICERS FOR 2009

Jonathan Russell made a motion to nominate Wendell Coombs Jr. to be Chair for 2009. Seconded by Joyce McStotts.

Call vote recorded by Ray Christensen.

A Mr. Coombs
A Ms. Haidenthaller
A Ms. McStotts
A Mr. Russell
A Ms. Howard

Motion passed 5-0.

Rosi Haidenthaller made a motion to nominate Joyce McStotts to be Vice-Chair for 2009. Seconded by Connie Howard.

Call vote recorded by Ray Christensen.

A Mr. Coombs
A Ms. Haidenthaller
A Ms. McStotts
A Mr. Russell
A Ms. Howard

Motion passed 5-0.

POLICIES AND PROCEDURES

Tim Tingey, Community & Economic Development Director, reviewed the updated draft of the Board's Policies and Procedures as outlined which are minor word changes. This document will help the Board have more efficient meetings and provides a document for "Findings of Fact" which help substantiate the decisions made.

Rosi Haidenthaller commented that the document indicates that the chair must recognize a member when they wish to comment and asked if that is the policy the Board wishes to go. Mr. Tingey responded that it is important to recognize people who wish to make comment so as to keep order in the meeting, and helps identify the speaker for those who may be transcribing the minutes.

Connie Howard clarified that the Board members ought to be recognized to speak during the meeting and is part of Roberts Rules of Order.

Jonathan Russell made a motion to adopt the Policies and Procedures as written. Seconded by Connie Howard.

Call vote recorded by Ray Christensen.

A Mr. Coombs
A Ms. Haidenthaller
A Ms. McStotts
A Mr. Russell
A Ms. Howard

Motion passed 5-0.

Ms. Haidenthaller commented that the April meeting date falls on the day after Easter. She asked if this would be a potential conflict with Board members. Ms. Howard stated this would not be a conflict for her.

Meeting adjourned.

Ray Christensen, AICP
Senior Planner